

**Minutes of the
Arkansas Water Well Construction Commission Meeting
July 31, 2015**

The regular meeting of the Arkansas Water Well Construction Commission was held on July 31, 2015 at 9:00 AM in the Arkansas River Room at Arkansas Natural Resources Commission, 101 East Capitol, Suite 350, Little Rock, Arkansas.

Commissioners in attendance: Commissioner David Washington, Vice-Chairman Lance Jones; Commissioners Ernest Pender, Mike McDermott, and David Gilbert.

Arkansas Natural Resources Commission staff in attendance included Crystal Phelps, General Counsel; Deanna Ray, Associate General Counsel, Jessica Wallace, ANRC Administrative Services Manager, Jacob Harvey, Water Well Inspector; Perry Dotson, Water Well Inspector; Jackie Broach, Ground-Water Administrative Analyst.

Chairman Washington called the regular meeting of the Arkansas Water Well Commission to order and greeted two visitors to the meeting, Bill White and Brian Groves.

Approval of Minutes:

Chairman Washington presented the June 5, 2015 Commission Minutes. Commissioner McDermott made a motion to accept the Minutes as presented, seconded by Commissioner Gilbert. Motion carried.

Executive Secretary's Report:

General Counsel, Crystal Phelps reported that there are Arkansas Water Plan Hearings scheduled throughout the state and encouraged attendance for anyone that is interested in attending any of the meetings. She stated that meetings have already been held in Jonesboro, Russellville and Little Rock. Upcoming meetings will be held in Fayetteville, El Dorado, Stuttgart and Monticello. She also reminded everyone that more information on the hearings can be found on the ANRC website.

Financial Report:

Jessica Wallace, ANRC Administrative Services Manager, presented the monthly financial report ending June 30, 2015. She reported Total Revenue of \$186,656.19; YTD Expenses of \$175,815.47; and YTD Net Revenue of \$10,840.72, leaving a Total Fund Balance of \$297,539.64. Ms. Wallace stated that requests for expenditure for any projects would still have to go through the Legislature.

Financial Report was approved.

Legal:

Associate General Counsel, Deanna Ray, responded to questions the commission had regarding Act 1066 and Act 1190. Regarding Act 1190, which is the Business Portal Act, she researched it and has tried contacting the office of the Secretary of State as well as checking their website and there is nothing posted on, nor are there any rules on it yet that pertains to this bill. She stated that in reading the act, it indicates that the Secretary of State's office is responsible for contacting the state agencies and or the commissions regarding this act and at this time she is unable to report on this Act. Regarding Act 1066, which relates to expired licenses, she stated that if their license was in good standing and had no violations of the law in Arkansas or in any other state, we cannot require them to go through the apprenticeship program, but that we could require them to take the tests on knowledge sufficiency, and they would still have to meet the requirements for CEU's and any other requirements pertinent to the rules and regulations for which they are applying.

Associate General Counsel, Deanna Ray, reported that we did receive our rule changes back from the Governor's office, but they have since been passed and she now has to send them back for updates reflecting that.

Archived Construction Reports:

Todd Fugitt, ANRC Geology Supervisor, reported that the construction report database is having some problems and that USGS is working on it. He also stated that USGS is going through regional restructuring and that there is now a multi-state regional office and Arkansas is included in with this office. He stated that all of the programs concerning groundwater as well as the construction reporting are affected and that he will give a report on the progress being done to get the problems corrected at the summer AWWCA meeting.

Mr. Fugitt also reported on the Project Proposal for Entry of Archived Construction Reports. He stated that when construction reporting was started, USGS was given a copy of the reports in exchange for housing the reports. He said they set up their construction reporting system by township range and section for research purpose and geologic study and that they are still using this system today. They do not file theirs by radial search or any other searches you may use to find information such as the way the AWWCC Construction database is set up. You can pull up a copy of the construction report, but you cannot pull up information for all the wells in a specific area. You would have to manually click on each one. He stated that AWWCC files are kept for administrative and well enforcement purposes and are kept by calendar year and contractor. AWWCC, through ANRC, set up the database that allows for archiving reports for geologic studies and research study purposes, and as a useful tool for contractors. He also reported that we have about 20 years of archived construction reports from 1969-1990 that are not in the database. He gave three options in accessing these old records:

Option 1: The records are available for anyone to come in and look at, or staff can access them on a case by case means at no cost to the commission.

Option 2: Utilize commission funds to hire temporary staff for approximately one year to come in and enter some of those reports into the database, say maybe every fifth report, which would represent roughly 20% of the files, or approximately 19,000 reports. He estimated that it would cost the commission approximately \$19,200.00.

Option 3: Utilize commission funds to hire temporary staff for the purpose of entering all the construction reports. This would require about 1200 working days, which is about 5 years. He estimated that 3 temporary employees could probably complete this task in about 1.7 years at an estimated cost of \$96,000.00 to the commission. These cost estimates assume all computer hardware and technical support will be provided by ANRC. He stated there are approximately 100,000 reports in archive but not in the database.

Commissioner Pender asked if the USGS still scans the reports into their system. Mr. Fugitt responded that they did. Commissioner Pender suggested that to keep from going through all this expense, AWWCC could create a link from our website to their website so that scanned reports could be accessed by AWWCC as well. He stated that he would personally rather see scanned reports rather than entered reports by staff who may not understand all the complexities of the report. Mr. Pender stated that the state of Texas has the actual scanned reports. Mr. Fugitt stated he would be interested in seeing how theirs was set up. Mr. Fugitt asked if the commission had any recommendations in how to proceed with these archived reports. Commissioner Pender asked if using commission funds would have to first go through the state legislature. Associate General Counsel Deanna Ray responded yes, we would. Commissioner Pender responded that going through this process would take a long time and felt that creating a link between AWWCC and USGS would be more beneficial since they are already scanned. Mr. Fugitt responded that he would research creating this link and report back at the next AWWCC meeting.

Consideration of Applicants:

Jackie Broach presented the following applicants for Commission approval:

STATUS OF THOSE ALREADY APPROVED

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>	<u>EXAM</u>
Chris H. Shipman	A.A. Shipman Drilling Company	Yellville, AR	(D) Passed
Blake J. Cates	T.C.S. Water Solutions Company	Hot Springs, AR	(PI) Passed

NEW DRILLER APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
Charles C. Branton	Jones environmental, Inc.	Shreveport, LA

Commissioner Pender made a motion to approve this applicant, seconded by Commissioner McDermott. Motion carried.

NEW PUMP INSTALLER APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
None		

NEW DRILLER APPRENTICE APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
None		

NEW PUMP INSTALLER APPRENTICE APPLICANT

	<u>EMPLOYER NAME</u>	<u>CITY/STATE</u>
L. Allen Franken	Gilbert's Hard Rock Drilling	Mena, AR

Commissioner McDermott made a motion to approve this applicant, seconded by Commissioner Jones. Motion carried.

Mrs. Broach also reported that 205 Renewals were sent out on June 30, 2015, and that roughly half of those have been processed and their license and registrations have been mailed to them.

Inspectors Report – 7/31/15:

- Illegal Drilling and Pump Installer
 - Benton Co.- (geothermal) On going
 - Madison Co.- (Pump work) On going
 - Pope Co. – (geothermal) On going
 - Pulaski Co. –(Pump work) On going
 - Searcy Co.- (Pump work) On going
- Well Inspections
 - Greene Co.
 - Miller Co. Water well complaint received on 1/26/2015. Well inspection performed on 1/27/2015. Field analysis and lab results confirm that there is excessive sediment in the water. An affidavit has been provided by the landowner as to who drilled the well. However, staff is not able to confirm this directly. The home contractor has not agreed to provide information as to whom he hired to construct the well.

(Commissioner Pender stated that in Arkansas, residential building contractors have to have a general contractor's license in order to build homes and asked would this agency not have responsibility to cooperate with regulations in the state. Associate General Counsel Deanna Ray responded that AWWCC has not subpoenaed the agency for the information and they are not required to provide it. Commissioner Pender stated the home builder contractor contracted a

well and essentially serves as a water well contractor if he fails to provide information on who dug the well. Associate General Counsel Ray responded that AWWCC could attempt to subpoena the contractor if the commission wishes to do so. Commissioner Pender stated that the contractor or home builder has left the home owner with a well with excessive sediment and should be remedied. Associate General Ray responded that without commission approval, nothing more could have been done without commission approval. Chairman Washington asked the Commission how they wanted to proceed in this. Commissioner Jones asked who the home owner paid for installing the well. Inspector Harvey responded that he did not know. Associate General Counsel Ray stated that the home owner bought the well from the contractor and the contractor paid for everything. Commissioner Pender stated that the contractor essentially built the well and should be cited for having no water well contractor's license until he gave the commission the receipts and information on who drilled the well. Associate General Counsel Ray asked if that is how the commission wanted to pursue it rather than issue a subpoena. She stated that the law says in order to issue a subpoena, the commission has to give a majority vote in order to do so. Commissioner Pender asked if the law allowed the commission to cite the home contractor for being a water well contractor without having a water well contractor's license. Associate General Counsel Ray responded that it would be a hard case to make and advised if the commission wanted to move forward on this that they vote to issue a subpoena for the home builder's information. Commissioner Pender then made a motion to subpoena the home contractor's information and also stated that this is an example of contractor's operating without a water well contractor's license and not turning in construction reports. Commissioner Gilbert asked if the home was built to sell or was for this home owner. Associate General Counsel Ray responded that based on the information we have is that it was built to sell. Commissioner Gilbert stated that the home owner then knows who drilled the well and has to sign an affidavit stating that he does. Associate General Counsel Ray responded that the home owner personally did not hire the person to drill the well and would have no paper evidence of the person who actually drilled the well and all he can do is say who he believes drilled the well, and that is not a solid case and would not be enough to move forward with because it would be a "he said, she said" case. After more discussion, Associate General Counsel Ray advised the commission if they wanted to proceed with this, and if the home owner hires an attorney and loses, he could appeal the decision and would have a very good case to do so and advised the commission against doing that. Chairman Washington stated that the best thing would be to subpoena the information from the contractor. Associate General Counsel Ray agreed that would be the best thing to do. Commissioner Pender then reiterated his motion to subpoena the information from the home builder. Commissioner Jones seconded this motion. The motion failed. Commissioner Gilbert stated that it was obvious that only the commission was willing to pursue this, but the home owner was not or he would have done so. Associate General Counsel responded that is the reason it hasn't been pursued. Commissioner Gilbert stated the commission should not pursue this since the home owner was not interested in doing so. Commissioner Pender made his motion again and the motion failed. Associate General Counsel stated she could send a letter, not a subpoena, to the home builder asking for this information and see if he responds. Commissioner Pender asked if the driller was an active driller and Inspector Harvey responded that he was. The commission advised that a letter to the contractor and to the home owner should be sent.)

- Rig Inspection
 - Franklin Co.

- Contractor Visits
 - Baxter Co.
 - Benton Co.
 - Boone Co.
 - Calhoun Co.
 - Faulkner Co.
 - Garland Co.
 - Lincoln Co.
 - Logan Co.
 - Lonoke Co.
 - Izard Co.
 - Marion Co.
 - Montgomery Co.
 - Polk Co.
 - Scott Co.
 - White Co.
- Anonymous calls on unlicensed contractors (1)
 - Anonymous call received on 7/14/2015. No complaint on well and no violations observed. Inspection performed on 7/15/2015. Unable to verify the water well contractor and driller. (Current landowner has no knowledge of the well drilling activity.)

(Chairman Washington asked Inspector Harvey if he was pursuing this. Inspector Harvey responded that we could request an affidavit, but would be the same scenario as the case previously discussed.)

Water well database Report (June-July) 2015

- 75 well reports entered by staff.
- 250 well reports entered by contractors

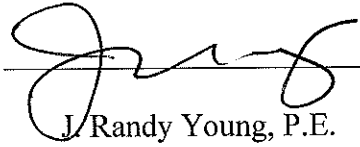
*Trained 5 contractors/drillers on how to use the water well database and enter construction reports.

*** We attended an International Ground Source Heat Pump Association (IGSHPA) accreditation Vertical Loop Installer (Driller) course June 23rd- 26th. After 3 days of instruction and studying endless material, Perry and I passed the difficult Exam. You had to make a 90% or better to pass.

Other Business:

None

Meeting adjourned.



J. Randy Young, P.E.
Executive Secretary

10-8-15
Date